l:Franken et al M, G-5 (ca. 1913-1958) 1960
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detected beneath the Hindu garb of older forms.) In practice cremation is frequently put off for a long time, and sometimes is not held at all, because of the great expense usually involved. This no doubt serves to account for the fact that, according to a recent estimate, only thirty per cent. of the Hindu-Balinese are given purification ceremonies.[16]

The purification rites, like the other rites, are not restricted to the family sphere. The community keeps watch to see whether and how they are observed. Reactions are sharper as regards rites of exorcism than as regards those of worship. The *desa* community takes care that the prohibitions regarding burial are maintained.

The requirement that the rites be performed in a certain way is often a condition for the use of the village burial ground (*sĕma desa*). Anyone who wishes to follow a different rite must find a resting place for his dead ones elsewhere. Such an attitude occasionally leads to difficulties between the *desa* and specific groups. The immediate occasion for the study of the *pande wĕsi* included in this volume[17] was such an issue. In some *desas* the *pande wĕsi* were not allowed to bury their dead in the *sĕma desa* because the *desa* required the use of holy water prepared by the *pĕdanda*, while the *pande wĕsi* used holy water prepared by their own religious leaders. For similar reasons use of the *sĕma desa* is, or was, also sometimes denied Hindu-Balinese converted to Christianity.

4

The Pĕdanda: His Origin

In many Balinese families, especially in the noble castes, a *pĕdanda* is invited to officiate at the *rites de passage*. This priest may be considered as a direct descendant of the Indian Brahmins whom the Indonesian rulers called to their courts in early times.[18] The chief doctrine the Brahmins brought with them to the archipelago was the Çaiwasiddhānta, which:

> ... was traditionally an esoteric teaching transferred solely from *guru* to disciple in an unbroken oral chain. The initiates usually belong to the

1:Franken et al M, G-5 (ca. 1913-1958) 1960
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Chapter Two

Legal Communities in Tĕnganan

In Tĕnganan Pĕgĕringsingan there are three kinds of legal communities: (1) the territorial communities with compulsory membership (the *desa* and the *banjar:* it is true that membership is by invitation, but refusal means complete loss of rights), (2) the non-territorial communities to which one belongs by birth (the young people's associations and the *tempek* or *pauman*), and (3) the communities formed by a free compact of individuals (irrigation associations, the *sĕkaha patus*, and music and dance associations).

I

Territorial Communities

THE DESA

The *desa* is the supreme community, which devotes itself to the service of the gods, summoning the whole population to cooperate for the purpose. Except on the occasion of a few specific religious ceremonies it is impossible for elements from outside the *desa* to participate. Anyone who marries a man or woman who is not from the village and thus acquires alien family ties loses all rights in the *desa* and must either live in the immigrant *banjar* of Pande or in Kĕstala, the hamlet for exiles. Shortcomings towards the *desa* are considered as shortcomings towards the gods, and those guilty of them are punished, often by being stripped of all their possessions and set outside the village. The Tĕngananese begin to prepare themselves for the service of the gods as children, as adolescent boys and girls they go through a whole course of training, and as married men and women they are expected to fulfil all religious obligations – a difficult task, as will be seen.

1:Franken et al M, G-5 (ca. 1913-1948)1960
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575 The *desa* members, the core villagers, are further distinguished according to the length of their membership. The most recent *desa* members are called *pĕngluduhan*, 'those who are charged'. They sit at the lower end in the *bale agung*. The next group consists of twelve *tambĕlapus*. Then come twelve *bahans*, of which the six eldest are the *klihans bahan*, the *desa* officials in charge of day-to-day affairs who meet every evening in the *bale agung* and hence are also called *klihans desa*. The following group is that of the *klihans luanan*, or *uluanan*, 'those sitting above'. There should be six such dignitaries, including the *subak* (the *de ngijĕng*), but since that post is vacant there are only five. These *klihans* are also called *kĕbayans desa*. There is a still older group, the *klihans gumi*, but they are no longer *desa* members. This group consists of the six oldest persons (counting from the beginning of their *desa* membership) in the village who had to leave the association because of the marriage of a child when they were of *bahan* rank or higher, and whose wives are still alive.

55 575 [587] If a person loses his *desa* membership because of the death of his wife he can only become a member again by marrying a girl who has not yet been married. In that case he regains his earlier place, and if that has moved forward in the *bale agung* he obtains a higher place, so that it sometimes happens that he skips over some ranks. However, it may be the case that when he regains his membership the number of places in the rank he should occupy are all filled, and in that case he has to wait for a vacancy.

561 562 769 This whole division of the population according to age and marital status corresponds to a division of the graveyards, which, as was pointed out, consist of an eastern and a western group, each of which is subdivided in a burial ground for children who have not yet lost their milk teeth, one for older children, and one for adults.

86 626 This structure of the population is of importance in two respects. There is perhaps no other *desa* on Bali where the individual is so much fitted into the village service from the cradle to the grave as in Tĕnganan Pĕgĕringsingan. There are countless imperative and

1:Franken et al M, G-5 (ca. 1913-1958) 1960
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prohibitive commandments to which the Tĕngananese is subject, and the violation of one of these regulations even in very early years has serious consequences for all of his later life. For a boy to be expelled from his association means that he cannot later become a member of the *desa*, in other words can never participate fully in religious ceremonies or obtain the customary right of disposal over five village *sawahs*. Walking through the village with a young Tĕngananese, one may suddenly hear him ask one to wait a moment until he has had his creese and sash fetched, for if he were to walk past his association *bale* without them it would cost him a fine of twenty-five hundred doits. The equivalent regulations for the *desa* members themselves are even stricter. They may not be found outside their *banjar* or the *desa* without a creese, outer garment, and sash. They have to have the permission of the village administration to go beyond the *desa* boundary. And they, their wives, and their children are prohibited from doing any number of things.

Yet to me this population structure seems even more striking as a remnant of an earlier social organization. This village where the men are exclusively tappers of palm wine and the women weavers of sacred fabrics is full of reminiscences of a totemistic clan structure such as Rassers has sketched in his various writings – a structure characterized by one single craft, totem animals, a division in left and right halves, clan temples, and initiation.[14]

After the above description of the young people's associations and the *desa* association a few further comments are necessary to complete this survey of the population of Tĕnganan Pĕgĕringsingan. The able-bodied men who are not members of the *desa* are called *gumis pulangan*. For village services only one *gumi pulangan* per 'kitchen', that is to say per compound, needs to report, even though there may be more able-bodied men living in the compound. The male *desa* members plus the *gumis pulangan* are together called *tambunan gumi*. This group comes to a total of about a hundred men. The men in the village who are not able-bodied are called *gumi unggu*. A person is no longer able-bodied if he is not capable of using a hatchet. Such a person may not belong to

1:Franken et al M, G-5 (ca. 1913-1948)1960
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Chapter Four

Administrative, Judicial, and Legislative Matters

I

Administrative Affairs

621 623 Every inhabitant of Tĕnganan who is not excluded from membership becomes a member of the *desa*, a *kĕrama desa* or *wong desa*, on marrying a girl or a young man of the *desa*. It is compulsory to inform the *desa* of the marriage. A man who [587] marries a widow from the *desa* or a woman from another *desa*, whether or not the latter has been married before, does not become a *desa* member. A new member becomes one of the *pĕngluduhans*, the *desa* members without a rank. Both husband and wife become members as a result of their marriage, and each has his own task to fulfil, though the only *desa* meeting in which the women participate is the one at which plans are discussed for the major *usaba* or purification ceremony in Kalima. At that meeting they sit on the left (west) side of the *bale*. It goes without saying that the women members of the *desa*, like the men, may not be physically deformed.

623 ●626 *Desa* membership is always terminated for husband and wife at the same time. Reasons for the termination may be the marriage of one of the couple's children, a second marriage on the part of the husband, the death of one of the couple, or a transgression of the *desa adat* by either the husband or the wife. If, for instance, a woman who is a *desa* member takes to carrying on trade or enters the *bale agung* while she is with child, or if a man fails to appear at the *desa* meeting in appropriate meeting dress (though a *pĕngluduhan* may fail to comply with the regulation twice), goes outside his *banjar* without being clad in *adat* dress and wearing his creese, passes the night outside the *desa* territory without permission from

1:Franken et al M, G-5 (ca. 1913-1958) 1960
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the *desa* council, or performs the *pĕkĕmit bĕngongan*, both the husband and the wife cease to be *desa* members.

When a *desa* member of whatever rank is deprived of membership, the others retain their old places for the time being, moving up to their new places only in Katiga, Kaněm, and Kasanga, the third, sixth, and ninth month. In certain cases a person who has lost his *desa* membership can regain it. For instance, a widower who marries a girl of the *desa* becomes a member once more, and the village constitution makes it possible for the *desa* meeting to decide whether a person whose membership has been revoked for another reason should be readmitted. He then regains the same seniority he had earlier enjoyed, even though that may mean that his position has moved towards the upper end of the *bale agung* in the meantime. In view of this possibility of regaining membership, a register of persons who have lost theirs, listed chronologically and according to rank, is kept among the village records.

Since the commencement, termination, and regaining of membership depends on a variety of causes, the number of members of the *desa* is variable. In 1926 there were twenty *pĕngluduhans*. This variability in the number of members has come about as a result of the decrease in population in the village. In earlier times the number of members corresponded to the number of *desa* compounds, with only those married couples having a compound becoming core villagers. Now, however, the population has declined to the extent that there are unoccupied compounds and everyone who marries can immediately obtain one.

During the *desa* meetings the *pĕngluduhans* sit nearest of all the core villagers to the lower end of the *bale agung*.[1] It is a general rule that the persons who have a lower seat (*dibĕten*) address those who sit higher up (*diulu*) in the official language, as *dapa* (the feminine form is *dabi*); the higher-ranking persons address the lower ones as *kita*. The newest pair of *pĕngluduhans* is granted a year in which to learn to behave according to the regulations, and in this period transgressions cannot lead to loss of membership.

Above the *pĕngluduhans* sit the twelve *tambĕlapus*, the two oldest of whom are called *klihans tambĕlapu*. The two *klihans* and the

1:Franken et al M, G-5 (ca. 1913-1948)1960
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attends the meeting for the first time on the *pati pantĕn* following his *mĕbea nganten.*[2] (If a new member presents himself to be inscribed in the *desa* register and has not yet chosen a new name, he is named by the *klihans desa* in consultation with the twelve *tambĕlapus.*)

The *desa* meeting has a ceremonial character, and is conducted under the auspices of the deity to whom each member makes a *sĕmbah* before taking his place. Every member is clad in the prescribed dress: his girdle over his outer garment, his *sabuk tubuhan*[3] clearly visible, and his finely ornamented creese placed in his sash at the back. A *pĕngluduhan* who violates this or other regulations three times is fined two thousand doits, to be paid within three days, and on failure to pay he loses his membership. A person of the rank of *bahan* or higher who commits such a transgression is immediately removed from the list of *desa* members. As has been mentioned, however, there is a fairly recent stipulation added to the *desa* constitution, that the *desa* can readmit him. The fact that persons lose their membership for the sake of such a trifling thing as failing to appear in proper meeting dress is one of the grounds for the charge of a reign of terror brought against the *desa* officials. The fact of the matter is, however, that the *desa* considers such a violation as a serious thing, for it is a transgression of the ancestral *adat.*

At the *desa* meeting the council renders an account of its administration, and the month's duties for the villagers eligible for service are discussed. It has already been pointed out that such persons are called *gumis pulangan*, and that there must be one *gumi pulangan* for each compound. If one of the persons living in the compound is a member of the *desa*, no other able-bodied man from the compound is required; however, if a core villager dies before his son has married, so that there is no core villager in the compound, the eldest able-bodied son becomes the *gumi pulangan* for the compound.

The *desa* members together with the other *gumis pulangan* constitute the *tambunan gumi*. The *desa* members in the *tambunan* are divided into six equal groups, and each sixth part of the *tambunan*

1:Franken et al M, G-5 (ca. 1913-1948)1960
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624 421 In conclusion, then, it can be said that the income of the *desa* officials is strictly limited, while the entire income of the *desa* is devoted to the *desa* offerings on the basis of a detailed budget. Hence I fail to see how anyone could accuse the village authorities of self-interest in punishing *adat* transgressions.

2

The Police

181 626 Every offence committed within the village territory is looked upon as prejudicial to the community, and for this reason the *desa* officials take action against such offences even when no complaint has been lodged.

It should be pointed out that every member of the *desa* is expected to look after the welfare of the community, and hence that all villagers must act as *tĕlik tanĕm*, 'village spies'.[4] Anyone reporting a transgression to the *bahan* is given a reward from the village treasury amounting to half of the fine placed on the transgression. The name of the informant remains secret. If the accused denies the charge, he is required to swear on oath to that effect beneath the tamarind tree.

625 In two particular fields there are functionaries with special policing powers. Supervision over the *kayu larangan*, various types of trees which it is prohibited to cut down or pick the fruits or nuts of, is exercised by the *kĕbayan tahak*, who must give permission for each exception to the prohibition. On the eastern mountain slope there are an unusual sort of forest rangers, the *lĕlipi sĕlĕm bukit*, 'king cobras', who guard against clandestine opening up of land or picking of fruits.

3

Judicature

69 None of the Tĕngananese village institutions has been so disrupted in the past decade as the uniquely organized and prudently operating judicial system. Let us, then, begin by describing the

2: Covarrubias R-5 (1930-1933) 1938
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lately, in places frequented by tourists, people are beginning to ask for money as a return for a service. Ordinarily even a child would be scolded and shamed by anyone who heard him ask something from a stranger. A gift must be reciprocated and we were often embarrassed by the return presents of our poor neighbours. We gave Ktut Adi, a little dancer of eight, a scarf of no great value; one day soon after she came to us with a basket of rice, some eggs, and a live chicken, carried by her mother because the load was too great for her. Children of the neighbourhood that Rose had treated for infected wounds always came back with presents of fruit, cakes, or rice which they handed casually to our house-boy, never mentioning them to us, as if they wanted to avoid making a demonstration of their generosity. Even children have a strong sense of pride.

The aristocracy is despotic and arrogant, but the ordinary people, although used to acknowledging the superiority of their masters, are simple and natural in an unservile and unsubmissive way. By the threat of passive disobedience and boycott they kept the princes from overstepping their bounds. Europeans complain that the Balinese make bad servants; they are too free, too frank, and do not respond to the insolent manner that the white man has adopted as " the only way to deal with natives."

Their moral code consists in maintaining their traditional behaviour, observing their duties towards their fellow villagers and paying due respect to the local feudal princes. Among themselves they are kind and just, avoiding unnecessary quarrels and solving their disputes by the simplest and most direct methods.

The villages are organized into compact boards or councils, independent of other villages. Every married man — that is, every grown man — is a member of the council and is morally and physically obliged to co-operate for the welfare of the community. A man is assisted by his neighbours in every task he cannot perform alone; they help him willingly and as a matter of duty, not expecting any reward other than the knowledge that, were they in his case, he would help in the same manner. In this way

2: Covarrubias R-5 (1930-1933) 1938
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most of the night was spent watching cockfights, plays, and dances.

Most important of *bandjar* property is a little communal temple (*pamaksan*). If the *bandjar* grows beyond the function of village quarters, or "ward," its *pamaksan* temple may become a temple of "origin"; then they will build their formal village temple (*pura desa*), their temple of the dead, out in the cemetery, and, having the three reglementary temples (*kahyangan tiga*) that every complete community needs, they will ask for independence from the village and will become a full-fledged free *desa*.

In the old mountain villages the *desa* system has remained untouched by the influence of the princes. Before the advent of the Dutch, they controlled their states through district landlords, the Pungawas, usually members of the prince's family, who appointed lesser tax-collectors, the Perbekel, one in every village. A Perbekel ruled only with the interest of his master in mind, often disregarding the local *adat*, with the result that he was regarded as an intruder and remained a complete outsider in the affairs of the village. Thus the system was saved because these agents had to be content with collection of taxes and the enforcement of princely orders. But the Balinese could always find regulations to curtail the power of the princes, and if their demands interfered too much with traditional institutions, the people simply boycotted them and refused to obey.

Following the conquest of Bali, the Dutch found the *desas* divided into many small spheres of influence: the princes, the *desa* chiefs, *bandjar* heads, and so forth. In the hasty reorganization of the political system they centralized the Government for control of the complex conglomerate of *desas*, logically enough, following the system of the princes, creating Government districts headed by Dutch officials assisted by the former landlords. They preserved the prince (Regent), the Pungawa, and the Perbekel to see that the taxes were paid. Finding the *desa-bandjar* relationship incompatible with Western management, they re-

7: Belo E-5 (1931-1935) 1936 OF7 Bali OF7

Rendah said to me, on the occasion of his daughter's marriage to her cousin, whose house is across the street, "I would rather roegi [take a financial loss] than to have my child marry away from home. If she married in another village, I should have the money, but my heart would be sick."

Such a remark, reflecting a sentiment of paternal devotion, must not be taken only at its face value. The Balinese, like other races, often say things which "sound well," but do not render their complete thought process, and are therefore misleading. It is not to be assumed that a man like Rendah, in giving away his daughter to her cousin, is actually casting to the winds a profit of ten or twenty thousand kepengs, having weighed them as nothing beside the possibility of losing sight of his child. Certainly he would prefer to have her near home. But to have her marry into a family with which he already has an established relation of favors given and received is more satisfactory than to set up a new link with a family of comparative strangers. And if he should accept compensation, he would be sanctioning a system which would not profit him in the end, for might not his own sons then have to pay for their brides? It would seem that these indebtedness relations are best carried on within the family group.

In connection with this it must be mentioned that sister-exchange between parallel cousins, maternal or paternal, is not permitted. This statement was made to me by various informants. None mentioned the prohibition of sister-exchange between cross-cousins, nor between unrelated families. I did not find any reference to sister-exchange in Balinese texts. The term used for the forbidden sister-exchange of parallel cousins is malik-terbalik, meaning a reversal, a going and coming. Malik may be a Balinese form of the root balik, although balik or walik are those commonly used in other connections; terbalik is definitely a Malay form, foreign to the Balinese language. But as many informants speak Malay fluently, and consider it a more polite usage to foreigners, the form of the term is not a proof of the late introduction of the taboo.

The difference in the two marriage schemes, that of the arranged marriage as against the marriage by abduction, reflects on the divorce. A woman may be "thrown away" by her husband for various reasons: she is barren, quarrelsome, or unfaithful. She may either return to her father's house, or, if she has a lover, marry him. Whether or not a payment has been made to the father, the father does not have to make any restitution to the husband in case the marriage fails. But the lover or second husband must in either case pay compensation money to the wronged husband. This is rather more expensive than the cost of an unmarried girl, for besides the cost of the woman, a fine must be paid to the community.

7: Belo E-5 (1931-1935) 1936 OF7 Bali OF7

626 This is part of the old village law, now taken over by the courts—a sort of
586 punishment and compensation for disturbing the "balance" of the social
587 group. I have known a case of an unusually fickle woman, who passed from one husband to another in such rapid succession that none had had time to pay for her before being deserted. Husband No. 4 found himself sued for a sum in which each of her previous husbands had a share: No. 4 was to pay No. 3, who owed No. 2, who still had not paid No. 1. The father also had a claim, but with faint hopes of recovery.

586 A wife who is maltreated by her husband has the option of returning to her family, where she will be graciously received if they do not consider her in the wrong. At the present time, if she can prove her husband's delinquency in the courts, she may obtain some right over the children. However, even under the old regime, a husband has been known to allow the wife to bring up the children in a separate establishment, although they are considered chiefly his, and the descendants of his ancestral line.

583 There was the case of a girl for whom a marriage was arranged with
584 her cousin, the son of her father's elder brother. Her father had died, leaving his wife with four girls and a baby boy, and no one to provide for them. The cousin's branch owned house and land, whereas the girl's family had nothing, not even the space on which their house stood. Her father had occupied the land as tenant-farmer to the Tjokordā, and after his death, as there was no man left to till it, the land was forfeit. Obviously the marriage of the eldest daughter to her cousin would have been advantageous, and all her relations urged her to agree to it. The wealthy branch could have advanced the money needed to buy the land on which her house stood, and thus saved the house for her mother and sisters, and eventually a heritage for the small brother. But the girl resisted all persuasion to the match. Finally the grandmother resorted to a ruse. She came to the girl, asking her to prepare medicine for her cousin, lying ill with a fever. The girl collected the necessary herbs and spices, pounded them together, and brought them to her cousin's house. Although she hated him, she could
[602] not refuse to help a relative in illness.

"He lies within," said the grandmother, indicating the metèn, the room enclosed with walls. "Take it in to him."

The girl entered the room. At once the old woman pulled the door to, and bolted it on the outside. The young man leapt up from the couch to embrace his unwilling bride.

583 For several days the girl was kept a prisoner. When they began to relax
586 their vigilance, she ran away, but her cousins always pursued her, and brought her back. They believed that once used to the young man, she

12: Haar S-4 (1939) 1948 OBI Indonesia OBI
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Then, too, the right of disposal over cultivated land does not always operate in the same manner. In some law-areas (*e.g.*, South Tapanuli, Ambon, Bali and Java) it is possible to note three levels of operation in some villages. First, the community right is strongest with regard to lands without an owner, which have reverted to the village and then been reissued by the village to a new proprietor. That person's legal status for the time being permits no dealings in the land and is weak in resistance to village interference in his title; as, for instance, when it is desired to recapture the land for non-performance of communal services. Second, the right of disposal is also strong with respect to those lands which are original holdings of the villagers. So long as a male descendant holds the land of his family ancestors, he has a firm hold as a member of an original lineage within the village group. However, the village interest is on the alert against any change in the legal possession of those original lands. It admits of no alienation, no division among heirs, no combination with other fields. If a native villager dies without heirs the village appoints a new person to use those particular fields or orchards. This new proprietor will acquire a position similar to that of persons who have held such fields from of old. But that takes a good long time. Third, there may be fields or orchards in addition to those issued by the village. These are individually owned, and the community interest is weak; the proprietors may pawn or sell such lands; their reversion to the village is exceptional, and village interference with these lands is rare. In Java such lands are called "sawah jasa" (in contrast with the "sawah pekulen or gogolan"); on Ambon, "dusun pusaka" (in contrast with the "dati").

It is this variegated action of the village rights that is sometimes, and erroneously, called "mixed possession."

Residential land is occasionally handled differently under the communal right of disposal of a village than is cultivated land. Villages interfere more readily to create living space than they do to make workable fields available.

5. *The dual area of disposal.*—The dual area of disposal is encountered in two different ways. In the first and more exceptional instance, an inland village will possess its actual residential and food-producing area; and, in addition, it may hold a distant maritime area from which it derives its indispensible sea products and salt. The more common dual form, however, is that which occurs when a given area falls within the disposal powers of both a local village and the regional community in which that village lies. As a

12: Haar S-4 (1939) 1948 OB1 Indonesia OB1
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1. *Giving of security by private agreement.*—In Java, at any rate, this transaction is frequently accomplished without knowledge of the village chief, or any other chief. In this event, it cannot in any wise be effective against third parties. The most important consequence of this is that any *jual* transactions executed with secretly pledged land are legally valid, even though the debt has not been paid off. The second result is that a pledged arable field may be put up for other debts, too, and the first creditor has no priority over others.

This does not rob the security transaction of all value, as is sometimes claimed. Fortunately, the fulfilment of the obligations entailed in security transactions depends on other motives than the urge to get out of a legal action without loss. The losses to be encountered in social conflict would be as great as the gain in defaulting. Reliance must rest on this, because there can be no formulation of *a rule of law* for protection against third parties on behalf of a secret lender on security.

2. *Officially witnessed security transactions.*—If the agreement is closed with the knowledge of the village chief,[7] then the native possessor cannot alienate the land, or make a secondary pledge with it, unless he turns the produce of the land over to the first creditor. If the debtor neglects to inform the creditor of any further transactions with the pledged field, it is up to the chief to do so. If he fails to do so, the matter is bungled, and the creditor has a claim for protection at law. In such cases the social factors are naturally even stronger than in the non-publicly attested transactions. In the "tahan" contract of the Bataks and the Balinese "makantah," if any profit accrues from the land, the priority of the creditor covered by the land designated as security is recognized.

In Java, unlike Bali, the village chief is not always pulled into the drawing up and witnessing of a security contract. But how does it work in those cases where he is? There are decisions and authors whose opinions are that there is no priority vested in the creditor in such cases, for the reason that registration of the agreement with the village chief has not become an established institution of legal force in Java. However, there are contrary decisions and authors who hold that notification of the village chief and registration of the agreement by him entails a preference for the creditor, which can be sustained at law, if the registration was voluntarily undertaken by both parties. A legislative proposal to this effect

[7] This is always the case among the Bataks and in Bali.

has been recently in preparation, but nothing has come of it as yet.

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